

## Department of Veterans Affairs

## § 21.5058

(4) A participant may make as many lump-sum contributions as he or she desires, but he or she may not make more than one lump-sum contribution per month.

(Authority: 38 U.S.C. 3222(d))

[45 FR 31, Jan. 2, 1980, as amended at 47 FR 51744, Nov. 17, 1982; 48 FR 50530, Nov. 2, 1983; 53 FR 617, Jan. 11, 1988; 53 FR 34496, Sept. 7, 1988]

### § 21.5053 Restoration of contributions (Persian Gulf War).

(a) *Restoration of contributions when no entitlement is charged.* If the provisions of § 21.5072(i) require that a veteran's entitlement not be charged for a payment or payments he or she received, the amount of the veteran's contributions which were included in the payment or payments will be restored to the fund by the Department of Defense.

(Authority: 38 U.S.C. 3235; Pub. L. 102-127) (Oct. 10, 1991)

(b) *Restored contributions are treated like other contributions.* VA will treat contributions which have been restored under paragraph (a) of this section as though the veterans had contributed them for all purposes including—

(1) Computing the veteran's monthly rates and benefit payments under § 21.5138, and

(2) Determining any refund which may become due the veteran under §§ 21.5064 and 21.5065.

(Authority: 38 U.S.C. 3235; Pub. L. 102-127) (Oct. 10, 1991)

[58 FR 34369, June 25, 1993]

### § 21.5054 Dates of participation.

(a) *General.* An individual may participate after December 31, 1976. An individual was not eligible for benefits before July 1, 1977, unless discharged after January 1, 1977, for a service-connected condition. The first date on which an individual on active duty enrolled in a course, courses or a program of education leading to a secondary school diploma or equivalency certificate may receive benefits is subject to

the eligibility requirements of § 21.5040(f)(4) and (5).

(Authority: 38 U.S.C. 3231 (a) and (b))

(b) *Termination of right to begin participation.* (1) Except as provided in paragraph (b)(3) of this section, no individual on active duty in the Armed Forces may initially enroll after June 30, 1985.

(2) An initial enrollment occurs when a serviceperson who has never contributed to the fund—

(i) First makes a lump-sum payment to the fund, or

(ii) First authorizes an allotment to VA for deposit in the fund. See 32 CFR 59.3(b)(10).

(3) Notwithstanding the provisions of paragraph (b)(1) of this section, any individual on active duty in the Armed Forces who was eligible to enroll on June 30, 1985, may enroll at any time during the period beginning on October 28, 1986, and ending on March 31, 1987.

(Authority: 38 U.S.C. 3221(a), Pub. L. 99-576, sec. 309(c); Pub. L. 99-576)

[51 FR 2695, Jan. 21, 1986; 51 FR 12321, Apr. 10, 1986, as amended at 53 FR 34496, Sept. 7, 1988]

### § 21.5058 Resumption of participation.

(a) *General.* An eligible individual, who remains otherwise eligible, may resume active contribution to the fund, if he or she has:

(1) Voluntarily elected to suspend following completion of minimum participation;

(2) Suspended at any time for reasons of hardship; or

(3) Received a discharge or release from active duty after participation and reenlisted.

(Authority: 38 U.S.C. 3221)

(b) *Disenrollment in order to participate in other educational programs.* A person who elects to disenroll in order to receive educational assistance allowance under 38 U.S.C. chapter 34 or to receive an officer adjustment benefit payable under sec. 207, Pub. L. 101-366, 104 Stat. 442, may not reenroll if he or she has negotiated a check under the provisions of law governing the program elected in lieu of the Post-Vietnam Era

## § 21.5060

Veterans' Educational Assistance Program. A person who elects to disenroll in order to receive educational assistance under the Montgomery GI Bill—Active Duty, as provided in § 21.7045, may not reenroll.

(Authority: 38 U.S.C. 3018A, 3018B, 3018C, 3202(l), 3222)

(c) *Reenrollment permitted following some disenrollments.* (1) Except as provided in paragraph (b) of this section, a person who has disenrolled may reenroll, but will have to qualify again for minimum participation as described in § 21.5052(a).

(2) If a person does reenroll, he or she may “repurchase” entitlement by tendering previously refunded contributions which he or she received upon disenrollment, subject to the conditions of § 21.5052(f).

(Authority: 38 U.S.C. 3221, 3222)

[45 FR 31, Jan. 2, 1980, as amended at 46 FR 29474, June 2, 1981; 47 FR 51745, Nov. 17, 1982; 51 FR 12853, Apr. 16, 1986; 58 FR 38058, July 15, 1993; 58 FR 40468, July 28, 1993; 61 FR 7217, 7218, Feb. 27, 1996; 61 FR 29029, June 7, 1996]

### § 21.5060 Disenrollment.

(a) *Voluntary disenrollment.* (1) An individual may disenroll at anytime after the initial 12 months of participation.

(2) At any time within the initial 12 months of participation, an individual may elect to disenroll for reasons of personal hardship only.

(Authority: 38 U.S.C. 3221(a), (b))

(b) *Nonvoluntary disenrollment.* The Department of Veterans Affairs shall disenroll automatically an individual who meets any of the following sets of conditions:

(1) The individual is discharged or released from his or her initial obligated period of active service and:

(i) The discharge or release is under dishonorable conditions, or

(ii) A statutory bar to benefits administered by the Department of Veterans Affairs exists for the individual;

(2) The individual participated only after completion of the initial or subsequent period of active service; is discharged or released and:

(i) The discharge or release is under dishonorable conditions, or

(ii) A statutory bar to benefits exists for the individual; or

(3) The individual has not utilized all of his or her entitlement to benefits within the 10-year period stated in § 21.5041, and at the end of one year thereafter has not filed a claim for educational assistance allowance as provided in § 21.5030(c).

(Authority: 38 U.S.C. 101, 3225, 3232)

CROSS REFERENCE: *Refunds without disenrollment.* See § 21.5065.

[45 FR 31, Jan. 2, 1980, as amended at 46 FR 59247, Dec. 4, 1981; 51 FR 12853, Apr. 16, 1986; 58 FR 31910, June 7, 1993; 61 FR 29030, June 7, 1996]

### § 21.5062 Date of disenrollment.

An individual will be disenrolled effective:

(a) The date the Department of Veterans Affairs or the Service Department determines he or she has ceased to be legally entitled to participate; or

(b) The date the individual negotiates the check which represents a refund of his or her remaining contributions to the fund, whichever is earlier.

(Authority: 38 U.S.C. 3221(d))

### § 21.5064 Refund upon disenrollment.

(a) *General.* A disenrolled individual will be refunded all contributions made by him or her to the fund. He or she will be ineligible to receive benefits under §§ 21.5130 and 21.5138, unless the individual reenrolls as a participant and agrees to participate in a new period of 12 consecutive months as provided in § 21.5058. The amount of the contributions refunded upon disenrollment shall be limited to the amount of his or her contributions not utilized to receive benefits as of the date of disenrollment, less any outstanding debts resulting from overpayments of educational assistance allowance.

(Authority: 38 U.S.C. 3223)

(b) *Effective date of refund.* The date upon which the refund of contributions, if any, will be made shall be determined as follows: